

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**JAN 11 2006**

**CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS**

GUADALUPE ZAPETA-OSORIO,

Petitioner,

V.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-74133

Agency No. A70-806-389

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted December 5, 2005<sup>\*\*</sup>

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Guadalupe Zapeta-Osorio, a native and citizen of Guatemala, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reconsider its earlier order summarily affirming an immigration judge's decision

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

denying his application for asylum, withholding of removal, and protection under the Convention Against Torture. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion, *Reyes v. Ashcroft*, 358 F.3d 592, 595 (9th Cir. 2004), and deny the petition for review.

Assuming that Zapeta-Osorio did not waive his challenge to the BIA's denial of reconsideration by failing to raise it in his brief, *see Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996), we conclude that the BIA did not abuse its discretion when it denied reconsideration. Zapeta-Osorio alleged ineffective assistance of counsel, but did not comply with any of the procedural requirements of *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988), and did not identify ineffective assistance that is plain on the face of the record. *See Reyes*, 358 F.3d at 597. He also failed to allege an error of law or fact, the discovery of new evidence, or a change in circumstances. *See* 8 C.F.R. § 1003.2(b), (c).

**PETITION FOR REVIEW DENIED.**